

**MINUTES
BOARD OF ADJUSTMENT
PUBLIC HEARING
APRIL 12, 2007**

The Lake County Board of Adjustment met Thursday, April 12, 2007 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

Board Members Present:

Howard (Bob) Fox, Jr.
Steven Berk
Henry Wolsmann, Vice Chairman
Lloyd M. Atkins, Jr.
Mary Link Bennett
Donald Schreiner, Chairman

Board Members Not Present:

Ruth Gray

Staff Present:

Anita Greiner, Chief Planner, Zoning Division
Paul Simmons, Planner, Zoning Division
Anna Ely, Public Hearing Coordinator, Zoning Division
Sherie Ross, Public Hearing Coordinator, Planning and Community Design Division
Melanie Marsh, Deputy County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He confirmed Proof of Publication for each case as shown on the monitor. He added that if a variance is approved, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter. He stated that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case. Chairman Schreiner explained the procedure for hearing cases on the consent agenda.

TABLE OF CONTENTS

<u>CASE NO.</u>	<u>OWNER/ APPLICANT</u>	<u>AGENDA NO.</u>
Consideration of Minutes	March 7, 2007	
Withdrawals:		
BOA#36-07-5	Beverly Berkell/Norman Hunter	1
BOA#37-07-4	Richard and Virginia Cihal	2
BOA#39-07-5	Joseph and Jackie Melott/Guy and Janette Adams	4
BOA#43-07-2	Daniel and Sidney Kent	8
BOA#44-07-5	Lone Cypress Preserve, Inc/CRS Timber, LLC	9
Continuances:		
BOA#38-07-3	Doral Estates Homeowners	3
Consent Agenda Approval:		
BOA#42-07-3	David and Cindy Nollmeyer, John P. Welton, Jr., and Donna Welton/Leslie Campione, P.A.	7
BOA#45-07-1	Kenneth and Melanie Wagner	10
Regular Agenda:		
BOA#40-07-3	Katie M. Balic/Branko Balic	5
BOA#41-07-3	South Lake Builders, Inc/Branko Balic	6
BOA#46-07-4	Robert S. and Rebecca S. Hutton	11
BOA#47-07-4	Greyhound Ranch Adoptions, Inc. Janego Construction, Inc.	12
Discussion	Rescheduling of June Board of Adjustment Public Hearing	

Minutes

MOTION by Mary Link Bennett, SECONDED by Lloyd Atkins to approve the March 7, 2007 Board of Adjustment Public Hearing minutes, as submitted.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

Withdrawals

There was no one in the audience who had an objection to the requested withdrawals.

MOTION by Mary Link Bennett, SECONDED by Henry Wolsmann to accept the withdrawals of BOA#36-07-5 (Beverly Berkell/Norman Hunter), BOA#37-07-4 (Richard and Virginia Cihal), BOA#39-07-5 (Joseph and Jackie Melott/Guy and Janette Adams), BOA#43-07-2 (Daniel and Cidney Kent), and BOA#44-07-5 (Lone Cypress Preserve, Inc/CRS Timber, LLC).

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

Continuances

There was no one in the audience who had an objection to the requested continuance.

MOTION by Mary Link Bennett, SECONDED by Steven Berk to grant the requested continuance of BOA#38-07-3, Doral Estates Homeowners, until the May 10, 2007 Board of Adjustment Public Hearing.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

CASE NO.: BOA#42-07-3 **AGENDA NO.:** 7
OWNER: David and Cindy Nollmeyer,
John P. Welton, Jr. and Donna
Welton
APPLICANT: Leslie Campione, P.A.

CASE NO.: BOA#45-07-1 **AGENDA NO.:** 10
OWNERS/APPLICANTS: Kenneth and Melanie Wagner

There was no one on the Board nor anyone in the audience who had an objection to the above cases remaining on the consent agenda:

MOTION by Steven Berk, SECONDED by Mary Link Bennett to take the following actions on the above consent agenda:

BOA#42-07-3	Approval with Conditions
BOA#45-07-1	Approval

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

CASE NO.: BOA#40-07-3
OWNER: Katie M. Balic
APPLICANT: Branko Balic

AGENDA NO.: 5

CASE NO.: BOA#41-07-3
OWNER: South Lake Builders, Inc.
APPLICANT: Branko Balic

AGENDA NO.: 6

Anita Greiner, Chief Planner, asked to combine these cases for presentation and discussion as the properties are adjacent to one another; separate motions can then be made for each case. The Board was agreeable to this.

Ms. Greiner presented the cases and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She submitted a copy of the plat as County Exhibit A and showed it on the monitor. She showed a copy of the proposed lot splits and flood zones from the staff report on the monitor. She also submitted a wetlands map as County Exhibit B. She said the lots involved in the cases are lots 3 and 4, which have approximately 226 feet of road frontage on CR 561. She did not receive a survey showing the jurisdictional wetland line. However, it appears from County Exhibit B that the created lots would be wholly within the wetlands and would not be buildable.

In response to Mary Link Bennett, Ms. Greiner said a portion of the parcels is within the flood zone. The lots may also be in the wetlands. If this goes through the minor lot split process, a survey showing the wetlands must be submitted. When Ms. Bennett asked if easements can run through wetlands, Ms. Greiner said structures must be built 50 feet from a wetland line.

Lloyd Atkins was informed by Ms. Greiner that even if this variance is approved, the County could not issue building permits unless another variance was granted to allow structures to be built closer than 50 feet from the wetland line. Without a survey, Ms. Greiner said she could not say if there are any uplands on which the septic tank or well could be placed.

Ms. Bennett confirmed with Ms. Greiner that the easements would be equal in width so there would be a 50-foot strip going through the properties.

When Mr. Atkins asked the age of the map, Ms. Greiner said she thought it was from 1998.

Referring to the flood zone map in the staff report, Branko Balic said there is more than two acres of uplands on both sides of the flood plain on each of the four proposed lots. Ms. Greiner explained that it is possible to have wetlands either in a flood zone or not in a flood zone. A survey is needed to check the soil and vegetation and determine whether there are wetlands. Mr. Balic said it is a wooded area. Ms. Greiner said she has nothing to show that there are uplands on the site. In this case, she said an easement would be needed over the flood zone to get to the proposed lots even if the lots are uplands.

When Chairman Schreiner asked if it would be advantageous to continue this case until a survey is available, Ms. Greiner said that would be up to this Board if it feels a survey is needed to make a decision.

Mr. Berk felt that information is needed. This property appears to have wetlands, and it would difficult to make a determination without the details.

When Chairman Schreiner asked if Mr. Balic would like to have a survey done and submitted to staff for review, Mr. Balic said he would like to do that. Even if the Board would approve the requested variance, Chairman Schreiner said another variance would be needed to make the lots buildable. Mr. Balic said he would be agreeable to a continuance.

There was no one in the audience who wished to speak on the case.

CASE NO.: BOA#40-07-3
OWNER: Katie M. Balic
APPLICANT: Branko Balic

AGENDA NO.: 5

CASE NO.: BOA#41-07-3
OWNER: South Lake Builders, Inc.
APPLICANT: Branko Balic

AGENDA NO.: 6
PAGE NO.: 2

Even if Mr. Balic brings back a survey showing uplands on the property, Mr. Berk said an easement may go through wetlands if there are wetlands on the site; and that could not be approved. He did not want to see Mr. Balic spend money on a survey and still not be approved. Ms. Greiner said the easement through wetlands was not the deciding factor for staff. She would have recommended denial regardless because she did not feel the request met the prongs of the test to grant a variance.

Mr. Balic said there was a railroad at the rear of his property. He asked if it was going through wetlands; the rails are still there. It is lower than the land on which he would build. He questioned how a railroad can go through the wetlands. Ms. Greiner said she had no idea how long ago that railroad was put there. Mr. Atkins added that the railroad could have been put in before the Code was adopted. Mr. Balic said it is his understanding that the County has plans to use the railroad easement for Rails to Trails. He requested a continuance so he can determine how much he wants to spend to obtain the necessary information. Then he will let the Board know whether he wants to continue.

Ms. Greiner explained that the factors she considered were whether there was a hardship or violation of principles of fairness and if it meets the intent of the Code. This is a newly platted subdivision. If this easement had been brought before staff when it was platted, the proposed easement would have been required to be paved; she questioned whether staff would have allowed the easement through a flood zone.

Dale Seale, owner of adjoining lots 5 and 6, said that according to his surveys, the flood map shown at this public hearing is not accurate if the hatch lines are wetlands. There is a considerable amount of uplands within that hatched area of his property, especially at the back and some in the middle. Ms. Greiner explained that the map does not show wetlands, only the flood plain. Mr. Seale said this map may lead someone to believe that the whole center piece is wet. Within that area, there are uplands and some wetlands. If Mr. Balic is successful, he would also be interested in lot splits for his property.

Mr. Atkins confirmed with Mr. Seale that he has a survey showing the wetlands on his property. Mr. Atkins stated that many surveyors will show the wetlands, but they will not guarantee that the lines are accurate so Mr. Seale's survey may not be 100 percent accurate. Mr. Seale said there has been no water on those lots for the past 1-1/2 years. He said he had asked the Florida Department of Environmental Protection (FDEP) to lay out the lines and mark them with their flags. He then had his surveyor come back and confirm the FDEP lines. FDEP and his surveyor have been communicating. There does not appear to be any disagreement. Chairman Schreiner suggested Mr. Seale meet with Mr. Balic and share that information. Mr. Seale said he would be glad to do that.

MOTION by Steven Berk, SECONDED by Mary Link Bennett to continue BOA#40-07-3 until the June Board of Adjustment public hearing.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

CASE NO.: BOA#40-07-3
OWNER: Katie M. Balic
APPLICANT: Branko Balic

AGENDA NO.: 5

CASE NO.: BOA#41-07-3
OWNER: South Lake Builders, Inc.
APPLICANT: Branko Balic

AGENDA NO.: 6
PAGE NO.: 3

MOTION by Steven Berk, **SECONDED** by Mary Link Bennett to continue BOA#41-07-3 until the June Board of Adjustment public hearing.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

CASE NO.: BOA#46-07-4

AGENDA NO.: 11

OWNERS: Robert S. and Rebecca S. Hutton
APPLICANT: Greyhound Ranch Adoptions, Inc.

Anita Greiner, Chief Planner, presented the case and staff recommendation of denial. She showed the plat of survey and aerial from the staff report on the monitor, noting the location of the proposed kennel. She pointed out on another aerial (County Exhibit A) the locations of the writers of the some of the letters of opposition and the one letter of support. She said other letters received were from out of the County.

Mary Link Bennett confirmed with Ms. Greiner that if the kennel was placed in the middle of the property, it would be 146 from the side property lines or 54 feet less than the required setback.

Chairman Schreiner asked those in opposition and those in support to raise their hands.

Richard Ornstein, treasurer of Greyhound Ranch Adoptions, noted that the property adjacent to the property outlined in green on County Exhibit A is owned by the same person who wrote the letter of support; she owns ten acres, two five-acre parcels. He submitted another letter of support from Clora M. Hutton, a 20-acre property owner to the south, as Applicant Exhibit A.

Steven Berk confirmed with Mr. Ornstein that the kennel will be closer to the western side of the parcel. Mr. Ornstein said that location was chosen because there were residents to the east, south and north. Directly adjacent to the west is a 20-acre site, which is part of a 200-acre area of undeveloped land. Placing the facility on the west side was an ideal spot so as to keep it away the current residents and not be a nuisance to them. However, they are not locked into that spot. Nowhere on the property could they meet the 200-foot setback. Placing it in the middle would allow the kennel to be 146 feet from the east and west sides. They are willing to work with the Board for the best placement of the kennel on this property.

Mr. Ornstein said they have been looking for suitable property in this area for over a year. This adoption group was formed in Seminole County although they serve Seminole, Orange, Osceola, Volusia, and Lake Counties. He said they were looking for a property that is easily accessible to the area they serve and would have sufficient acreage for a kennel to take care of 20 to 28 dogs. This will not be a business operation; they will not be breeding greyhounds. They will be building a residence for themselves on this property. The kennel will be built with an exterior that would be complimentary to the house and could be converted to another use by another property owner or by themselves if they found they could no longer care for the dogs as they grew older. Greyhounds must be kept indoors most of the day because they only have one coat and cannot handle the heat or cold. The kennel will be an air-conditioned, soundproofed building. There will be no constant noise. The dogs will only be outside four times a day for 15 to 20 minutes each time.

When Mr. Berk asked about possible environmental pollution problems, Mr. Ornstein said the waste would be picked up immediately and placed in plastic bags in a garbage can unless there are other rules they must follow. He felt they have addressed all noise, pollution, and odor issues.

Mary Link Bennett asked if there would be a run or series of runs from the structure for the dogs to use when they are outside. Mr. Ornstein said there will be a contained area, completely fenced, for the dogs when they are outside; they will not have the run of the entire ten acres. This contained area would be located to the rear of the building and be no more than 30 feet long and 25 feet wide.

If this variance is approved, Ms. Greiner explained that another process will still be necessary; a Conditional Use Permit (CUP) would be required.

In response to Mr. Berk, Chairman Schreiner said the property would need to be 428 feet wide to meet the 200-foot setback requirement.

Mr. Ornstein was informed by Ms. Greiner that the County has received letters of opposition from residents

CASE NO.:	BOA#46-07-4	AGENDA NO.:	11
OWNERS:	Robert S. and Rebecca S. Hutton	PAGE NO.:	2
APPLICANT:	Greyhound Ranch Adoptions, Inc.		

on the west and south sides of the property. Lloyd Atkins suggested placing the facility closer to the eastern property line where no one objects; that would allow the kennel to be placed 200 feet from the western property line, where people have objected. Mr. Ornstein said he would be agreeable to that.

Christa Hixon, who owns the two five-acre parcels to the east, said her husband had sent a letter to the County regarding this case. She was in favor of this variance because she supported the effort to retire the racing greyhounds. It was her understanding that the kennel would be further north. She would like to know exactly where the kennel would be located. In response to Mr. Atkins, Ms. Hixon said she did not mind the kennel being closer than 200 feet from her property line, but she would prefer it being further north.

Kay Hodgson said she has worked for Greyhound Ranch Adoptions for two years and has owned greyhounds all her life. These dogs are very quiet, calm, docile breed; they are not guard dogs or outside dogs. Noise would not be an issue.

Melissa Bigsby, resident on Hutchinson Lane, said she has a large investment in her property and her house and was concerned a kennel will devalue her property. She owns a portion of the road and was concerned about the additional traffic. She has children and many animals. She questioned how she could be sure that the applicant would follow through with what he said once the variance is approved. Being a nonprofit organization, she questioned whether it had the financial means to build the facility it wants to build. She would prefer a kennel not be put on this property.

Angi Ritten, who also owns property on Hutchinson Road, about 1,200 feet from the subject property line, said that Hutchinson Road is a private dirt road; it was not designed for commercial use. She was also concerned for the future. She felt this is a noble cause, but she did not want it so close to her home. She owns property in Apopka, where there is a kennel 600 feet from her property line. It has created such an odor that she is unable to sell her property. She does not want that to happen to her neighborhood; it is a quiet, rural neighborhood.

Kim Williams said she was opposed to this variance as she lives within barking distance of the property. Her property borders the exotic animal property. This is a rapidly growing area, and this is not the place for such a facility.

Wayne Books, who is on the Board of Directors for Rolling Oaks Estates and president of that association, said he is speaking more for the association than himself since he lives a distance from the subject property. Other residents within the subdivision have voiced concerns about the noise level. There are currently two kennels in the area. At feeding times, the dogs are noisy. He did not feel additional kennels are needed as this is a low-density area.

Renee Cohn, owner of ten acres on Hutchinson Road, felt this facility would decrease property values. Her main concern is that there will be no control over what happens on the property once the variance is approved. She was also concerned that this would open the door to other things. This is a nice, quiet, rural area; and they want to keep it that way.

Eleanor Perry, abutting property owner in the Rolling Oaks Subdivision, said her property is south and west of the property in question. The 20 acres that abuts the property to the east is owned by Mr. Hutton's mother, who would probably be in favor of this. While she felt this was a worthy cause, she did not feel this is the type of area in which to place this venture. It would sit almost in the center of expensive homes and would devalue the properties.

CASE NO.: BOA#46-07-4 **AGENDA NO.:** 11

OWNERS: Robert S. and Rebecca S. Hutton **PAGE NO.:** 3
APPLICANT: Greyhound Ranch Adoptions, Inc.

Mr. Ornstein said the CUP would require annual inspections and specific requirements as to the use of the property, the number of dogs, the soundproofing, the noise, and the odor. He said they take the dogs into the community on weekends to show the dogs. Therefore, there will be no traffic from people visiting the facility. They have a web site where people can view the dogs and read about them. The people can contact them to view the dogs in other locations. They want to be good neighbors and intend to build a quality residence. The facility will have an exterior stucco look in a southwestern motif, similar to their residence. It will not degrade property values. They will be living there and will want their property values to go up just like everyone else.

MOTION by Henry Wolsmann, SECONDED by Howard (Bob) Fox to approve the variance request in BOA#46-07, as submitted.

Mr. Atkins said he disagreed with the 50-foot setback from the western property line. If this variance is to be approved, he felt there should be a stipulation that the kennel be located 200 feet from the west, north, and south side and closer to the east side where there is no opposition.

Mr. Berk commented that his biggest concern is that the applicant does not own the property. Ms. Greiner said that would be the Board's determination as to whether there is a hardship or a violation of principles of fairness.

Ms. Bennett spoke of a possible requirement of a tall hedge if the variance is approved so the property would be more aesthetically pleasing.

Melanie Marsh, Deputy County Attorney, said the conditions discussed above go toward satisfying the intent of the Code. The County would need something on the record as to whether or not the Land Development Regulation violates the principles of fairness or if there is a hardship in this case to ensure the variance would meet all the required prongs.

Regarding a hardship, Mr. Berk said that is difficult to meet since the applicant does not own the property.

FOR: Fox, Wolsmann

AGAINST: Berk, Atkins, Bennett, Schreiner

NOT PRESENT: Gray

MOTION FAILED: 2-4

MOTION by Steven Berk, SECONDED by Mary Link Bennett to approve the variance request in BOA#46-07-4 with the following conditions:

1. The setback from the west, north and south property line shall meet the 200-foot requirement.
2. Landscape shall be determined by staff during the Conditional Use Permit (CUP) process.

Mr. Atkins did not feel there is a hardship or that the request meets the intent of the Code. He felt there could be additional property to the east purchased by the buyer so the 200-foot setback could be achieved on that side.

CASE NO.: BOA#46-07-4

AGENDA NO.: 11

OWNERS: Robert S. and Rebecca S. Hutton
APPLICANT: Greyhound Ranch Adoptions, Inc.

PAGE NO.: 4

FOR: Berk, Bennett

AGAINST: Fox, Wolsmann, Atkins, Schreiner

NOT PRESENT: Gray

MOTION FAILED: 2-4

MOTION by Lloyd Atkins, SECONDED by Steven Berk to deny the variance request in BOA#46-07-4, as recommended by staff.

FOR: Berk, Atkins, Bennett, Schreiner

AGAINST: Fox, Wolsmann

NOT PRESENT: Gray

MOTION CARRIED: 4-2

CASE NO.:

BOA#47-07-4

AGENDA NO.: 12

OWNER/APPLICANT:

Janego Construction, Inc.

Anita Greiner, Chief Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She submitted a copy of the site plan as County Exhibit A. At the request of Lloyd Atkins, Ms. Greiner pointed out the location of the underground exfiltration trench and underground water storage tank on the site plan.

Joe Janego and Krista Janego were present to represent the case. Mr. Janego said he felt the setback requirement is unfair because the County has already taken an eight-foot right-of-way for future road widening on Colmar and Walton Heath Avenues. Maintaining a 50-foot setback on the north, west, and south sides of the property and 15 feet from the east side would only allow a building size of 235 feet. They own the building to the east of this property, which is for their construction business; therefore, they propose no buffer on that side. There is an existing buffer between the two properties. He spoke of the commercial buildings, fire station, residences, and vacant land in the area.

In response to Chairman Schreiner, Melanie Marsh, Deputy County Attorney, said that to her knowledge there was no eminent domain so the right-of-way could have been deeded in the past. However, she would need to check the record to verify that. Mr. Janego said they have owned this property for three years; he did not know when the right-of-way was taken. Mr. Atkins was informed by Mr. Janego that the original survey did not show the eight-foot right-of-way.

Mr. Janego submitted a site plan as Applicant Exhibit A and a rendering of the proposed car wash as Applicant Exhibit B. He understood the homeowners' concerns regarding noise, traffic, property devaluation, and crime. This will be a nice-looking structure matching the country look in the area. This is a growing area, and there is no car wash within ten miles other than a new one being built in Mount Dora. He felt this car wash could be an asset to the town.

In response to Steven Berk, Mr. Janego said he did not check into the setbacks when he purchased this property. If he had, he probably would not have purchased the property. He is paying taxes on a piece of property that he cannot use. That is his basis for violation of the principles of fairness. He noted the other allowable uses on the property (self-serve coin laundry, bar or tavern, professional office facility, mechanic's shop, bank, convenience store, and restaurant), but they felt a car wash was the best family-oriented business. Chairman Schreiner was informed by Mr. Janego that the size of the property to the east that they own is 50 feet by 120 feet.

Ms. Greiner stated that Robert Bone had filed a notice of appearance.

Robert Bone, attorney, was present to represent Lee Salmon, who is a property owner in the neighborhood. He submitted 16 photographs as Opposition Exhibit A. Mr. Salmon said these photographs were taken ten days ago. He said he built his home in 1984 and is currently building a porch on the back of the house with a pool and screen enclosure off the porch. His house is located at the corner of Colmar and Walton Heath Avenues. Referring to the photograph of the Janego construction office, Mr. Salmon said that structure has been there since 1991. Previously it was used as a realty and construction office and then as a beauty salon. The owner of the beauty salon also bought vacant property to provide parking for the building. When the beauty shop was sold to Mr. Janego, she sold the shop and vacant property as one parcel. A picture was shown of the easement between the back of Janego's office and Lange's Plaza. It is not an abandoned easement; it is used. Ms. Lange was approached to close it, but they chose the option not to close it because they need it as access to the parking behind the Plaza.

When Mr. Bone asked what effect Mr. Salmon felt a car wash would have on his property if it is allowed as proposed by the applicant, Mr. Salmon said he is faced with the potential of much noise from the car wash and increased crime because the car wash will be unattended. He spoke of the heavy traffic on SR 46, and the possibility of customers from the car wash driving through neighborhoods where children are playing. Regarding property values, Mr. Salmon felt this car wash would have a 40 percent impact on his property

CASE NO.: BOA#47-07-4 **AGENDA NO.:** 12
OWNER/APPLICANT: Janego Construction, Inc. **PAGE NO.:** 2

value. In addition to aesthetics, Mr. Bone said the setback and landscape requirements are needed for safety reasons. There will be an impact to Mr. Salmon's property no matter what use is put on the subject property, but a car wash will create an impact due to noise, aesthetics, and safety. This is a small lot with small streets in a small neighborhood. If the landscape and setback requirements are not met, the intent of the Code will not be carried out. Regarding principles of fairness, it is unfortunate that the applicant did not do his homework before purchasing the property; but he felt the Code should be enforced. He agreed with staff that there is no hardship or violation of principles of fairness. For those reasons, he asked the Board to deny all the variances being requested.

Shannon Boone, who has lived on Walton Heath Avenue for 19 years, said she was concerned about the noise, light, safety, and traffic. She was against this request.

Charles Rowe, who lives east of Mr. Salmon's property, was also concerned about the traffic. He did not want a car wash in his front yard.

Judith Gigea said she bought a house in this area 9-1/2 years ago because it was a rural community. The car wash will be noisy and probably bring undesirables into the area. She felt it would also devalue her property. She said she is completely against this variance request.

Flo Lange said she and her husband own Lange Plaza. She would not have a problem with an office being built on the subject property, but she felt a car wash would bring crime. At this time, there is very little crime in the area. The alley is not closed; it is their access to the rear of their building where they have parking. She was concerned that people would "hang out" in the area if this is approved. She also felt there could be a water issue. She was opposed to the variance request.

Mr. Janego said he did not buy the property from the owner of the beauty salon. He bought it from John Fredricks, who bought it from the beauty salon owner. The alley on the north side is 14 feet wide. It is abandoned and not supposed to be used. It ends at 200 feet behind the Lange Plaza; it abuts up to a wooded area. Regarding crime, he did not feel people would "hang out" in an area where there is a fire station that is fully lighted with people nearby. The car wash will have a 24-hour security system. According to statistics, most people use car washes between 7:30 a.m. and 7 p.m. If the Board desires, they would be willing to close the car wash at 10 or 11 p.m. He did not feel the car wash will create more noise than a house. No matter what use he puts on this property, he will need a variance. He did not believe the intent of the Code is to prevent them from building on this lot. They are open to meet with their neighbors and comply in any way they can as long as it is realistic. People using the car wash would turn onto Walton Heath Avenue from SR 46 and exit the car wash on Colmar Avenue. He did not believe there would be a traffic backup. Since they have an office adjacent to this property, they will be watching the car wash and will do whatever is needed to provide security and keep the noise down at the facility.

In response to Mr. Berk, Mr. Janego said they are proposing 15 feet of landscaping on the south side; but they could add as much as 20 feet. They are proposing landscaping on all sides except the east side where there is existing landscaping separating their office building and on the north side that backs up to Lange Plaza with the abandoned alley and no buffering between the two buildings. The roads are narrow, but the County has taken eight feet of his property to widen the road.

Ms. Greiner said the County has no record that the alley is an abandoned alley. If it were to be abandoned, it would have to go through a vacation process with the County. She has no evidence that has been done. Mr. Janego said it is a vacant alley rather than an abandoned alley.

Mr. Bone confirmed with Mr. Janego that all cars using the car wash would exit onto Colmar Avenue directly across the street from Mr. Salmon's property.

CASE NO.: BOA#47-07-4 AGENDA NO.: 12**OWNER/APPLICANT: Janego Construction, Inc. PAGE NO.: 3**

In response to Mr. Atkins, Mr. Janego said the only way the car wash would fit on this property and meet the setback requirements is if the car wash was two stories. Regarding Ms. Lange's comment about the water issue, all the water will be reclaimed; that is the purpose of the filtration system. Mr. Atkins was informed by Mr. Janego that he bought the beauty salon and subject property at the same time, but they are two separate parcels.

If the lot was larger, Mr. Bone said the driveways could be configured to come out across the street from the fire station instead of Mr. Salmon's property; that would result in less impact to Mr. Salmon's property. He asked the Board to balance all of the factors in this case. A car wash is too intrusive, and he asked that the application be denied.

MOTION by Steven Berk, SECONDED by Mary Link Bennett to deny the variance request in BOA#47-07-4.

In response to Mr. Atkins, Ms. Greiner said the zoning on the subject property is C-1.

FOR: Fox, Berk, Wolsmann, Atkins, Bennett, Schreiner

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

Rescheduling of the June Board of Adjustment Public Hearing

Anita Greiner, Chief Planner, said the June Board of Adjustment public hearing must be rescheduled. Melanie Marsh, Deputy County Attorney, explained that the County Attorney's office has a conflict that day and will not be available to sit in at the public hearing on June 14. Ms. Greiner read the available dates into the record; and after discussion, it was decided to reschedule the public hearing to June 15, 2007.

Adjournment

There being no further business, the meeting was adjourned at 3:26 p.m.

Respectfully submitted,

Sherie Ross
Public Hearing Coordinator

Donald Schreiner
Chairman